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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/550,433	09/21/2005	Erich Becker	SMB-PT159 (PC 04 020 B US	3347
3624	7590	08/03/2007	EXAMINER	
VOLPE AND KOENIG, P.C. UNITED PLAZA, SUITE 1600 30 SOUTH 17TH STREET PHILADELPHIA, PA 19103			KERSHTEYN, IGOR	
			ART UNIT	PAPER NUMBER
			3745	
			MAIL DATE	DELIVERY MODE
			08/03/2007	PAPER

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

## Office Action Summary

Application No.

10/550,433

Applicant(s)

BECKER, ERICH

Examiner

Igor Kershteyn

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-8 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-8 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 21 September 2005 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some \* c) ☐ None of:
- 1) ☒ Certified copies of the priority documents have been received.
  - 2) ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - 3) ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO/SB/08)  
Paper No(s)/Mail Date 09/21/2005
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_

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## **DETAILED ACTION**

### ***Claim Objections***

Claims 2-7 are objected to because of the following informalities:

In claims 2-7, line 1, "A" should be changed to --The--. Appropriate correction is required.

Claim 8 is objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. While independent claim 1 requires limitations other than that of the membrane, claim 8 requires only limitations pertaining to the membrane structure, thus claim 8 is not further limiting claim 1.

### ***Claim Rejections - 35 USC § 102***

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-4, and 6-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Cooper et al. (6,276,907).

In figures 9, and 12-16, Cooper et al. teach a reciprocating piston machine comprising at least one working membrane 300 and/or at least one auxiliary membrane made from an elastomeric material and having an oscillating drive, engaging the

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membrane 300 in a central area 306, with a deformable membrane area 304 being provided between the central area of the membrane and a circumferential edge area 302 clamped in the reciprocating piston machine and deforming during the oscillating pumping movement, wherein a different geometrical configuration of the working membrane and/or the auxiliary membrane, caused by the drive, to mounting points provided in the central area and at the circumferential edge area is developed by two merging curves (not numbered), which define a shape of the membrane.

Claims 1-8 are rejected under 35 U.S.C. 102(b) as being anticipated by Juterbock et al. (5,863,184).

In figures 6 and 7, Juterbock et al. teach a reciprocating piston machine comprising at least one working membrane 21 and/or at least one auxiliary membrane made from an elastomeric material and having an oscillating drive, engaging the membrane in a central area 55,56, with a deformable membrane area 57 being provided between the central area of the membrane and a circumferential edge area 54 clamped in the reciprocating piston machine and deforming during the oscillating pumping movement, wherein a different geometrical configuration of the working membrane and/or the auxiliary membrane, caused by the drive, to mounting points provided in the central area and at the circumferential edge area is developed by two merging curves (not numbered), which define a shape of the membrane.

***Prior Art***

Prior art made of record but not relied upon is considered pertinent to Applicant's disclosure and consist of four patents.

St. Clair (2,904,068) is cited to show a reciprocating piston machine comprising at least one working membrane and/or at least one auxiliary membrane made from an elastomeric material and having an oscillating drive, engaging the membrane in a central area, with a deformable membrane area being provided between the central area of the membrane and a circumferential edge area clamped in the reciprocating piston machine and deforming during the oscillating pumping movement, wherein a different geometrical configuration of the working membrane and/or the auxiliary membrane, caused by the drive, to mounting points provided in the central area and at the circumferential edge area is developed by two merging curves, which define a shape of the membrane.

Eisele (4,237,775) is cited to show a reciprocating piston machine comprising at least one working membrane and/or at least one auxiliary membrane made from an elastomeric material and having an oscillating drive, engaging the membrane in a central area, with a deformable membrane area being provided between the central area of the membrane and a circumferential edge area clamped in the reciprocating piston machine and deforming during the oscillating pumping movement, wherein a different geometrical configuration of the working membrane and/or the auxiliary membrane, caused by the drive, to mounting points provided in the central area and at

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the circumferential edge area is developed by two merging curves, which define a shape of the membrane.

Gebauer et al. (5,306,122) is cited to show a reciprocating piston machine comprising at least one working membrane and/or at least one auxiliary membrane made from an elastomeric material and having an oscillating drive, engaging the membrane in a central area, with a deformable membrane area being provided between the central area of the membrane and a circumferential edge area clamped in the reciprocating piston machine and deforming during the oscillating pumping movement, wherein a different geometrical configuration of the working membrane and/or the auxiliary membrane, caused by the drive, to mounting points provided in the central area and at the circumferential edge area is developed by two merging curves, which define a shape of the membrane.

Rasanow et al. (6,123,320) is cited to show a reciprocating piston machine comprising at least one working membrane and/or at least one auxiliary membrane made from an elastomeric material and having an oscillating drive, engaging the membrane in a central area, with a deformable membrane area being provided between the central area of the membrane and a circumferential edge area clamped in the reciprocating piston machine and deforming during the oscillating pumping movement, wherein a different geometrical configuration of the working membrane and/or the auxiliary membrane, caused by the drive, to mounting points provided in the central area and at the circumferential edge area is developed by two merging curves, which define a shape of the membrane.

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***Contact information***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Examiner Kershteyn whose telephone number is **(571)272-4817**. The examiner can be reached on Monday-Friday from 8:00 a.m. to 4:30 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Edward Look, can be reached on **(571)272-4820**. The fax number is 571-273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (703) 308 0861.

IK  
July 31, 2007

A handwritten signature in black ink, appearing to read 'Igor Kershteyn', written over a horizontal line.

IGOR KERSHTEYN  
PRIMARY EXAMINER

**Igor Kershteyn  
Primary Patent examiner.  
Art Unit 3745**